

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

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MATTHEW GORSKI,

Petitioner,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

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No. 13-224V

Special Master Christian J. Moran

Filed: October 28, 2013

Entitlement; influenza (“flu”)

vaccine; radial nerve palsy

Anne Carrion Toale, Maglio Christopher and Toale, Sarasota, FL, for Petitioner;  
Ann Donohue Martin, United States Department of Justice, Washington, DC, for  
Respondent.

### **UNPUBLISHED RULING FINDING ENTITLEMENT<sup>1</sup>**

On March 29, 2013, Matthew Gorski filed a petition for compensation alleging he suffered a radial nerve injury caused by his receipt of the influenza (“flu”) vaccine, which he received on October 22, 2010. Mr. Gorski seeks compensation pursuant to the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 et seq. (2006).

In the Rule 4(c) report, respondent stated that the Mr. Gorski’s claim is compensable under the Act. Respondent stated that the Division of Vaccine Injury Compensation, Department of Health and Human Services, has reviewed the facts of this case and have concluded that Mr. Gorski is entitled to a vaccine award because “a preponderance of evidence establishes that petitioner suffered a radial

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<sup>1</sup> The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this ruling on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

nerve palsy that was caused-in-fact by the administration of his October 22, 2010, flu vaccine, and that petitioner's injury is not due to factors unrelated to the administration of this vaccine. See 42 U.S.C. § 300aa-13(a)(1).” Additionally, respondent states that, “petitioner’s medical records establish that the statutory six month sequela requirement has been satisfied. See 42 U.S.C. § 300aa-11(c)(D)(i); see also Pet. Ex. 5 at 3.”

Special masters may determine whether a petitioner is entitled to compensation based upon the record. A hearing is not required. 42 U.S.C. § 300aa-13; Vaccine Rule 8(d). Based upon a review of the record as a whole, the undersigned finds that Mr. Gorski has established that he is entitled to compensation for his injuries.

**Accordingly, Mr. Gorski is entitled to compensation.** A status conference is set, sua sponte, for **Wednesday, November 13, 2013 at 3:30 P.M. Eastern Time** to discuss the process for quantifying the amount of damages to which he is entitled.<sup>2</sup>

Any questions may be directed to my law clerk, Mary Holmes, at (202) 357-6353.

**IT IS SO ORDERED.**

S/ Christian J. Moran  
Christian J. Moran  
Special Master

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<sup>2</sup> All preexisting deadlines are CANCELLED.